IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4565 of 2000

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KISHORIBEN P SHAH

Versus

GUJARAT STATE HANDLOOM DEVELOPMENT CORPORATION

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Appearance:

MR KAMLESH B MEHTA for Petitioner

MR HS MUNSHAW for Respondent No. 1

MR SHRISH M TRIVEDI for Respondent No. 4

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 11/08/2000

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner, a Gujarati Typist, serving in the

Gujarat State Handloom Development Corporation, the respondent herein (hereinafter referred to as 'the Corporation') challenges the order of transfer made on 3rd May, 2000.

Under the said order, the petitioner who was serving in the Head Office, has been ordered to be transferred to the Central Store at Sarkhej. It is submitted that the impugned order had been made for extraneous considerations and is made in violation of the interim order made on Special Civil Application No. 1636/92. It is contended that the petitioner is the only Gujarati Typist in the Corporation and she has been continuously working at the Head Office. However, though there is no need of Gujarati Typist at the Central Store, she was sought to be transferred to the Central Store in the year 1992 and though the court had stayed the operation of the said order, the petitioner once again has been sought to be transferred at the Central Store. It is further contended that there is no other female staff at the Central Store at Sarkhej and it is not conducive for a female to serve at the Central Store more particularly because several Transport Companies are situated at Sarkhej surrounding the Central Store. It is also contended that the Chairman of the Corporation one Mr. Amrutia has been facing a criminal trial and with a view to taking undue advantage of his position, has become a Member of the Purchase Committee. Since the petitioner is the honest, sincere and punctual employee, her presence at the Head Office should be hinderance in the illegal motive of the said Shri Amrutia and, therefore, the petitioner has been moved out of the way by posting her at the Central Store. She has also made allegation against one Shri S.G. Doshi, former Manager (Administration). It is contended that the said Shri Doshi has been harassing the petitioner and since Shri Doshi has been transferred to the Central Store, he has managed to see to it that the petitioner was also transferred to the Central Store. Besides, adequate facilities are also not available for a female employee at the Central Store. Mr. Mehta has also objected to Shri Doshi's filing counter-affidavit on behalf of the Corporation. He has submitted that Shri Doshi is not the authorised person and he ought not to have filed the counter-affidavit. His filing the counter-affidavit is an evidence to the fact that he has been taking undue interest in the transfer of the petitioner. Mr. Mehta has also submitted that the Corporation has failed to follow the directions given by the Hon'ble Supreme Court in the matter Vishakha Vs. State of Rajasthan. It is submitted that no Committee like the one suggested by the

Hon'ble Supreme Court has been constituted to look into the complaint of the female employees of the Corporation.

Be it noted that Shri Doshi is the Deputy Manager, Franchise and Legal in the Corporation. I see no reason why Shri Doshi being the Deputy Manager, Legal, could not have filed affidavit on behalf of the Corporation. The allegations of personal bias made against Shri Doshi require to be ignored in as much as though the allegation of harassment has been made against Shri Doshi, he has not been impleaded as a party-respondent. Further, the allegations are too vague. Besides, the Corporation by its order dated 31st July, 2000 has transferred said Shri Doshi from Central Store, Sarkhej to the Head Office at Gandhinagar. I believe this should take care of the petitioner's grievance against Shri Doshi's presence at the Central Store. The allegations made against Shri Amrutia, the respondent no. 4, have been denied by him. It is stated that under the instructions issued on 3rd September, 1998, by the Government in respect of Public Sector Undertaking/Government Board/Corporation, it has decided that the Chairman of such Undertaking/Board/Corporation shall be the Chairman of the Purchase Committee. In consonance with the said instructions, the Board of Directors of the Corporation in its 96th Board meeting held on 16th November, 1998, has constituted a Purchase Committee of which the Chairman of the Corporation shall be the Chairman. The allegation of dishonest intention has also been denied. It is also submitted that the Chairman does not participate in day-to-day business of the Corporation, nor the respondent no.4 has ever worked directly with the petitioner. In the affidavit made on behalf of the Corporation, it is stated that the Central Store of the Corporation is situated on Highway and is safe for a lady employee also. It is stated that as many as 25 employees work at the Central Store including one Class-I officer i.e. the Deputy Manager, and a Class-II officer of the rank of Assistant Manager. It is stated that the Central Store houses stock worth Rs.1.5 Crore and proper registers are required to be maintained. Earlier such registers were maintained manually. However, having regard to the extent of the work, a request was made for a Gujarati Typist to maintain the Stock Register and Stock-sheets. Considering the need for a Gujarati Typist at the Store, and the petitioner being the only Gujarati Typist, she has been ordered to be transferred to the Store.

On perusal of the records, it appears that the allegations made against Mr.Amrutia, the respondent no.4

and Shri Doshi, the Deputy Manager are unwarranted. In any view of the matter, Shri Doshi now having been transferred to the Head Office, the petitioner's grievance regarding the presence of Shri Doshi at the Central Store stands redressed. With other 25 employees working in the Store, it is hard to believe that it is not safe for the petitioner to work at the Store at Sarkhej.

It appears that earlier also on 9th March, 1992, the petitioner was ordered to be transferred to Sarkhej which was challenged by the petitioner in Special Civil Application No. 1636/92. This court (Coram : Mr.Justice C.K.Thakkar) initially, on 11th March, 1993, directed the notice to issue and ordered to maintain status-quo as on 11th March, 1992. On 21st April, 1992, this court (Coram : Mr.Justice J.M.Panchal) made order as under :

> Rule returnable on 17-6-92. Status-quo granted earlier to continue. If the petitioner applies for leave, the Corporation may consider the request of granting leave as per the Rules.

It is obvious that the order of status-quo did not benefit the petitioner since on 11th March, 1992, the order had already been implemented. It is stated in the affidavit that pursuant to her request and in view of the communal riots in the city, the petitioner was accommodated at the Head Office for some time and that arrangement continued till the date of the impugned order of transfer. In that view of the matter, it can not be said that the impugned order has been made in violation of the above referred order dated 21st April, 1992 made on Special Civil Application No. 1636/92. I, therefore, suppose that the petitioner shall have no legitimate grievance against the impugned order of transfer. Whether there is a need for a Gujarati Typist at Store or not, is a matter to be considered by the administration of the Corporation. Neither the petitioner, nor this court can have an authority to decide whether the Corporation has a need for a Gujarati Typist at the Store or not. Whether the Corporation has complied with the direction issued by the Hon'ble Supreme Court in the matter of Vishakha Vs. State of Rajasthan, is besides the issue and shall have no effect either on the order of transfer or on the challenge to the order of transfer.

In view of the above discussion, petition is dismissed. Rule is discharged. Interim relief is

vacated.

It is however clarified that inspite of this order, the petitioner shall not be relieved from the Head Office to join the duty at the Central Store at Sarkhej till proper sanitation facilities are provided at the Central Store at Sarkhej.

[Miss R.M Doshit, J.]

JOSHI*